

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Amendment of Section 73.202(b),

Table of Allotments,  
FM Broadcast Stations  
(Rose Hill, Trenton, and Aurora  
North Carolina)

)  
)  
) MM Docket No. 95-88  
) RM-8641  
) RM-8688  
)  
)  
)

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To: Chief, Allocations Branch

**MOTION TO ACCEPT RESPONSIVE PLEADING**

Aurora Broadcasting ("AB") hereby submits is Motion to Accept Responsive Pleading in the above docketed rule making proceeding. In support whereof, the following is shown:

**Background**

By Notice of Proposed Rule Making, Rose Hill and Trenton, North Carolina

("NPRM"), 10 FCC Rcd 6611 (1995), the Commission proposed the reallocation of FM Channel 284A from Rose Hill to Trenton, North Carolina, as a Class C2 allotment, with the modification of the license of WBSY, Rose Hill, to operate at Trenton on Channel 284C2. On August 10, 1995, the date established by the Commission for filing comments, AB filed "Comments and Counterproposal of Aurora Broadcasting," proposing to allot Channels 283A to Aurora, North Carolina, instead of allotting Channel 284C2 to Trenton. By Public Notice, Report No. 2092, released August 21, 1995, the Commission afforded the public 15 days within which to submit replies to the counterproposal. On September 5, 1995, Duplin County Broadcasters ("DCB") filed a reply to AB's Counterproposal. In its reply, DCB proposed the alternative allotment of Channel 221A to Aurora, North Carolina, in lieu of Channel 283A,

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as requested by AB. AB has reviewed DCB's proposed alternative allotment and has determined that it is not technically feasible to allot Channel 221A to Aurora. DCB's proposal was based upon legal and factual inaccuracies. Together with this Motion, AB is filing a "Response to Reply Comments of Duplin County Broadcasters" to address the inaccuracies in DCB's reply.

**DCB's Reply Raised New Matters For Which AB Has Not Been Able To Respond**

The Commission's rules do not contemplate the filing of additional pleadings in rulemaking proceedings after the date for filing reply comments has passed. See §1.415(d) of the Commission's rules. However, in this case, DCB raised new matters in its reply to which AB has not had an opportunity to respond. More importantly, DCB's reply contains factual and legal inaccuracies and AB should be permitted to rebut this flawed showing. The acceptance of AB's Response will assist the Commission with its decision in this case and will enable the Commission to issue an informed and accurate decision.

**WHEREFORE**, the above facts considered, Aurora Broadcasting hereby respectfully requests that the Commission accept its Response to Reply of Duplin County Broadcasters.

Respectfully submitted,

**AURORA BROADCASTING**

By. 

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September 20, 1995

### **CERTIFICATE OF SERVICE**

I, Denise L. Felice, a secretary in the law firm of Smithwick & Belendiuk, P.C., certify that on this 20th day of September, 1995, copies of the foregoing were mailed via first class mail, postage pre-paid, to the following:

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